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In re Application of  
KAY, et al.  
U.S. Application No.: 09/807,167  
PCT No.: PCT/GB99/03169  
Int. Filing Date: 11 October 1999  
Priority Date: 09 October 1998  
Attorney Docket No.: 7413-3  
For: FLOOR COVERING MATERIAL AND  
METHOD FOR PRODUCING SAME

DECISION ON RENEWED

PETITION UNDER

37 CFR 1.47(a)

This decision is in response to applicant's "Renewed Petition to Establish Unavailability of Inventor Under 37 C.F.R. §1.47(a)" filed 31 May 2002 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 02 April 2002, applicant was mailed a decision dismissing applicant's renewed petition to accept the application without the signature of joint inventor Grenville SEAGER. Applicant was afforded two months to file any request for reconsideration.

On 11 January 2002, applicant filed the present renewed petition.

### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite \$130 petition fee required by 37 CFR 1.17(i); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant previously satisfied items (1), (3) and (4) above.

As to Item (2), applicant previously provided firsthand knowledge that a complete set of application papers were sent to Mr. SEAGER's last known address and returned undeliverable. However, applicant was advised in the decision mailed 02 April 2002 that a single mailing of the papers to the non-signing inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant was informed that a showing that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Mr.

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SEAGER was required. Regarding the presently filed papers, the declaration of Mr. Charles Meyer does not detail any first hand knowledge of Mr. Meyer of the described activities undertaken in an attempt to locate Mr. SEAGER. Rather, the declaration lists unsuccessful attempts by "Employees of Polyflor Limited" to locate contact information for Mr. SEAGER. This is insufficient. Applicant is required to provide first-hand evidence that the methods detailed in Mr. Meyer's declaration were undertaken.

For the reasons stated above it is not possible to grant applicant's renewed petition under 37 CFR 1.47(a) at this time.

### CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by all inventors or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to file the reply within the time period provided will result in **abandonment**. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.



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